

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS ARMANDO ZAZUETA-  
ARRELLANO,

Defendant.

**8:20CR222**

**ORDER**

This matter is before the Court on defendant Carlos Armando Zazueta-Arellano's ("Zazueta-Arellano") Motion to Suppress Evidence and Statements (Filing No. 18). Zazueta-Arellano seeks to suppress (1) physical evidence seized from a residence at 112 W. Pasewalk Avenue in Norfolk, Nebraska, (the "residence") in July 2020 and (2) unwarned statements he made to law enforcement after what he describes as "an illegal seizure." *See Miranda v. Arizona*, 384 U.S. 436, 444 (1966). The Court referred Zazueta-Arellano's motion to the magistrate judge<sup>1</sup> for initial review in accordance with 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Criminal Procedure 59(b)(1).

On December 8, 2020, the magistrate judge held an evidentiary hearing. A few weeks later, he issued a Findings and Recommendation (Filing No. 34) recommending the Court deny Zazueta-Arellano's motion. After a thorough analysis of the parties' arguments and the relevant caselaw, the magistrate judge concluded (1) "the officers were justified in conducting a protective sweep of the residence while executing an arrest warrant" and (2) had probable cause for a subsequent search warrant and "acted in reasonable reliance" on the warrant. With respect to Zazueta-Arellano's statements, the government stated it did not intend to offer those statements at trial, so the magistrate judge

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<sup>1</sup>The Honorable Michael D. Nelson, United States Magistrate Judge for the District of Nebraska.

recommended denying the suppression motion as to those statements without prejudice to reassertion at trial if the government tried to offer them.

On February 4, 2020, Zazueta-Arellano filed a Statement of Objections to Magistrate Judge's Findings and Recommendation (Filing No. 35), raising four objections. More specifically, "Zazueta-Arellano objects to the Findings and Recommendation inasmuch as they conclude" the following:

- (1) officers did not need a search warrant for the residence to serve an arrest warrant on Jesus U. Miranda ("Miranda") there,
- (2) "officers constitutionally conducted a 'protective sweep' of the residence" after Miranda's arrest,
- (3) "officers constitutionally observed items of evidentiary value in 'plain view' while doing the 'protective sweep' inside the residence," and
- (4) evidence obtained pursuant to the search warrant "are not tainted fruits of" violations of Zazueta-Arellano's Fourth and Fifth Amendment rights.

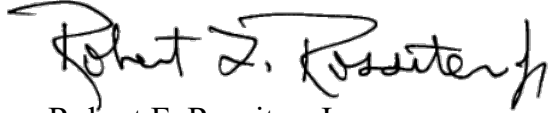
Upon careful de novo review, *see* 28 U.S.C. § 636(b)(1); Fed. Crim. P. 59(b)(3), the Court finds no error in the magistrate judge's analysis. The Court therefore concludes Zazueta-Arellano's objections are unfounded and his motion to suppress should be denied for the reasons stated in the magistrate judge's Findings and Recommendation. In accordance with the foregoing,

IT IS ORDERED:

1. Defendant Carlos Armando Zazueta-Arellano's objections (Filing No. 35) are overruled.
2. The magistrate judge's Findings and Recommendation (Filing No. 34) is accepted.
3. Zazueta-Arellano's Motion to Suppress Evidence and Statements (Filing No. 18) is denied.

Dated this 9th day of March 2020.

BY THE COURT:

A handwritten signature in black ink, reading "Robert F. Rossiter, Jr." with a stylized flourish at the end.

Robert F. Rossiter, Jr.  
United States District Judge